

Attorney Docket No.: CG-1117  
Inventor: Robinson  
Appl. No.: 10/628,599

### REMARKS

Claims 1-19 and 54-55 remain pending in the instant application. Please amend Claims 6, 8, 10-11 and 14. Claims 12 and 20-53 have been canceled. Claims 54 and 55 are newly added. No new matter has been entered.

#### 35 U.S.C. § 112 Claim Rejections

The Examiner has rejected Claims 7, 8 and 12 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicants' attorney respectfully traverses this ground of rejection.

The Examiner alleges that the phrase "said slip layer" in Claim 7 is indefinite since Claim 6 recites a slip layer and depends from Claim 1 which also recites a slip layer. To resolve this issue, Applicants' attorney has amended Claims 6, 8, 10 and 11. Claim 12 has been canceled. Applicants' attorney believes these amendments overcome the Examiner's rejection of Claims 7 and 8. Applicants' attorney respectfully request this ground of rejection removed.

#### 35 U.S.C. § 102 Claim Rejections

The Examiner has rejected Claims 1-3, 9 and 13 under 35 U.S.C. § 102(e) as being anticipated by O'Brien *et al.* Applicants' attorney has amended Claim 1 rendering this ground of rejection moot.

The Examiner alleges, in terms associated with Applicants' invention, that O'Brien *et al.* teaches a slip layer [11] which allows the rescal to become separated from the inner seal. The O'Brien *et al.* structure requires a layer of nitro-cellulose to act as a *release layer*. The wadding or liner portion [2] and the seal portion [3] are attached together by such layer 11. Specifically, as taught in Column 6, lines 57-60, "a [b]ond is formed between the seal portion [3] and the liner portion [2]. This teaches away from the slip layer which allows relative rotation as taught by the

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Applicant. The O'Brien *et al.* reference goes on to state that the attachment (between the seal portion 3 and the liner portion 2) includes a weaken zone formed by the weak bond formed between the release layer 11 and the low density polyethylene layer 12. Thus the seal [3] and liner [2] are connected before application to the container neck, which is different than Applicants' claimed invention.

Applicants' Claim 1 recites a *slip layer*. The slip layer is taught to inhibit the tearing of the inner seal layer or reseal layer during application of the closure to the container neck, wherein the reseal layer and inner seal layer are both disposed above a retaining structure in the closure. Since the reseal layer and inner seal layer are taught and claimed to rotate relative to one another during application, the slip layer functions to allow relative motion between the two structures.

To the contrary, the O'Brien *et al.* reference teaches a release layer [11] which *bonds* a wadding portion [2] and a seal portion [3] with a weakened bond for release during the initial removal of the cap from the neck of the bottle Col. 7, ll. 43-46. The bonding of the wadding portion [2] and seal portion [3] inhibits the *slip* function taught by the Applicants' and therefore, by definition, cannot be a slip layer as claimed in the instant invention. Alternatively stated, Applicants' inner seal and reseal layers are not connected or attached in any other way formed so that the two structures need to be *released*, as taught in the O'Brien *et al.* reference.

Since the O'Brien *et al.* reference does not teach a slip layer as alleged by the Examiner, the Examiner's rejection is improper. Applicants' attorney respectfully requests this ground of rejection withdrawn.

**35 U.S.C. § 103(a) Rejection of Claims**

The Examiner has rejected Claims 4-8, 10, 11 and 14-20 under 35 U.S.C. § 103(a) as being unpatentable over O'Brien *et al.* Applicants' attorney respectfully traverses the

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Examiner's ground of rejection.

As asserted previously, the O'Brien *et al.* reference fails to teach a slip layer as recited in Claim 1 of Applicants' instant invention. Instead, the O'Brien *et al.* reference teaches a structure wherein the wadding and seal portions [2,3] are bonded and only release during opening of the closure from the container. Since the layers are bonded, the release layer [11] cannot function as a slip layer during application of the closure on the container neck. Moreover, such function would change the intended use of the device and is therefore improper.

Further, to address the additional issues asserted in the § 103 rejection, the Examiner alleges that the slip layer is merely duplicated as only involving routine skill in art. MPEP 2144.04 states that duplication of parts has no patentable significance *unless a new unexpected result is produced*. In this instance, there is an unexpected result. As taught in the specification, the application of a slip layer to multiple sides of the reseal layer further inhibits tearing of the reseal and inner seal layers during application of the closure to the container neck. Applicants' attorney asserts that the invention is not just a mere duplication of a slip layer but instead involves the placement of the slip layer which is key to inhibiting tearing or other degradation of the inner seal or reseal layers during application of the closure to the container neck. Such result is certainly not taught in the cited prior art of record.

Regarding Claims 15 and 19, the Examiner states that a change in shape is generally recognized as being within the level of ordinary skill in the art. Applicants' attorney again asserts that O'Brien *et al.* reference fails to teach the slip layer of Claim 1, since the layer [11] bonds the two adjacent structures rather than allowing slip. Applicants' attorney respectfully requests this ground of rejection withdrawn.

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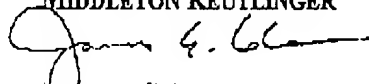
CONCLUSION

Applicants' attorney believes that the instant application is now in condition for allowance and therefore respectfully requests that the Examiner withdraw these grounds of rejection. However, if the Examiner believes there are other unresolved issues in this case, Applicants' attorney of record would appreciate a call at (502) 584-1135 to discuss such remaining issues. Applicant's attorney reserves the right to provide further response to the Examiner's office action. Applicant's attorney does not acquiesce to the Examiner's objections or rejections, unless otherwise specifically stated.

DATED: 2/2/06

Respectfully submitted,

MIDDLETON REUTLINGER



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